

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DISTRICT ATTORNEY OF NEW YORK COUNTY,

Plaintiff,

-against-

THE REPUBLIC OF THE PHILIPPINES, JOSE
DURAN, ON HIS BEHALF AND AS
REPRESENTATIVE OF A CLASS OF JUDGMENT
CREDITORS OF THE ESTATE OF FERDINAND E.
MARCOS, VILMA BAUTISTA, ESTER
NAVALAKSANA, LEONOR HERNANDEZ, AIDA
HERNANDEZ, IMELDA MARCOS, JORGE Y.
RAMOS, AND THE METROPOLITAN MUSEUM
OF MANILA FOUNDATION, INC.,

Defendants.

REPUBLIC OF THE PHILIPPINES,

Plaintiff,

-against-

GAVINO ABAYA, et al.,

Defendants.

CIVIL ACTION NO.:

1:14-cv-00890-KPF

Deemed related to:

CIVIL ACTION NO.:

1:14-cv-8441-KPF

**DECLARATION OF SALVADOR E. TUY, JR., IN SUPPORT
OF THE MOTION OF PRADO & TUY, LLP TO BE RELIEVED AS COUNSEL
OF THE REPUBLIC OF THE PHILIPPINES IN THE ABOVE MATTERS.**

SALVADOR E. TUY, JR. hereby declare under the oath the following:

1. I am an attorney duly admitted to practice law in the State of New York and the federal district court for the Southern District of New York ("SDNY"). I am a member of the firm Prado & Tuy, LLP and I am currently counsel of record to the Republic of the Philippines (hereinafter the "Republic") and to the Presidential Commission of Good Government ("PCGG")

in this case before this Court as “*District Attorney of New York v. the Republic of the Philippines, et al.*” 14-cv-890 (the Federal Interpleader case) and the “*Republic of the Philippines v. Gavino Abaya et al.*” 14-cv-3829 (the Broker action) as well as all matters properly encompassed in the subject matter of this case which is the recovery of asset arising from the sale of Claude Monet’s “*Le Bassin aux Nymphéas*” (the “Water Lily”); and cash from three other paintings sold at auction by Christies pursuant to Court Order on November 11 and 12, 2018. The four paintings (collectively the “Paintings”) are listed in Exhibit F to the Stipulation and Order signed by the parties on January 2019.

2. I have earlier served a Notice of Withdrawal as counsel for the Republic last May 20, 2019 to this Court and to the Republic of the Philippines coursed through Commissioner Rey E. Bulay of the Presidential Commission on Good Government (PCGG).

3. This withdrawal was prompted by the hearing on May 9, 2019 regarding the entitlement of Mr. Kenneth C. Murphy to the charging lien of former counsel for the Republic. It is the contention of the PCGG (the Republic’s agency pursuing the Marcos assets, and the actual client/payor of the fees) that Mr. Murphy’s contract is not valid, because it was not approved by the Republic’s Office of the Solicitor General (OSG), and the Commission on Audit (COA)¹ including the entitlement of Mr. Murphy to the seven percent contingent fee.

4. It was further argued by Mr. Bulay that there is a similar provision in our retainer with the Republic and that therefore this non-entitlement to the contingent fee equally applies to me.

5. As I had earlier anticipated and alerted the Court of the “ethical situation” I might

¹ The COA is a Constitutionally created body, that audits (pre and post-audit) expenditures of the Executive Branch. It was made independent of the Executive, to insulate its audit of expenditures from pressure by the Office of the President.

walk into; I am now placed in a conflict of interest situation which requires me to withdraw from further engagement in this case.


6. For the foregoing reasons, it is respectfully prayed that I and my firm Prado & Tuy be allowed to withdraw from further representation of the Republic in this matter.

7. It is further requested that the Court allow me and Prado & Tuy to submit our final billing and request to be allowed to file a motion as to our entitlement to the contingent fee. Accordingly, I will ask the Court to withhold such amounts of the unpaid bill and the contingent fee claimed from the funds of the Republic deposited with the Clerk of Court until this issue is resolved.

8. I hereby declare pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct of my own knowledge, information and belief under the penalty of perjury.

WHEREFORE, it is respectfully prayed that after notice to the Republic of the Philippines and all of its agencies and hearing, this Court issue an order relieving me and Prado & Tuy, LLP as counsel for the Republic of the Philippines in this matter.

Dated: May 31, 2019
New York, New York



Salvador Enriquez Tuy (ST1130)